

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Catalina Explorer Co., Inc., a California Corporation (VCC-74), to Amend its Certificate of Public Convenience and Necessity and to Extend its Operating Authority to Include Scheduled Service for the Transportation of Persons and Baggage Between Long Beach on the One Hand and All Points and Places on Santa Catalina Island on the Other Hand.

Application 01-11-007
(Filed November 8, 2001)

OPINION GRANTING EXTENDED AUTHORITY**1. Summary**

We grant the application of Catalina Explorer Co., Inc. (Explorer) for authority to extend its operating authority to include scheduled service between Long Beach and Avalon, Santa Catalina Island, and unscheduled service between Long Beach and all points on Santa Catalina Island, along with common carrier authority to carry baggage and similar items between all these points. Exercise of this authority is conditioned upon notice to the public of limitations of the service and upon Explorer obtaining local approval for docking and parking.

2. Background

Explorer operates scheduled service between Dana Point and Avalon on a scheduled basis under authority granted in Decision (D.) 99-05-029. It also provides on-call and charter transportation of persons and baggage between Dana Point, Newport Harbor, Long Beach and Redondo Beach on the one hand and all points on Santa Catalina Island on the other hand.

Explorer now seeks to expand its authority to operate scheduled service between Long Beach and Avalon, while continuing to provide scheduled service between Dana Point and Avalon and unscheduled service between coastside points in Orange and Los Angeles Counties to and from all points in Santa Catalina Island. Explorer also seeks commensurate authority to transport baggage, newspapers, periodicals, mail, bicycles, and surfboard and scuba gear between these places. The application is unopposed, although Catalina Channel Express, Inc. (Express) filed a response to the application pursuant to Rule 44 of the Rules of Practice and Procedure.¹

3. Discussion

In D.97-11-027, the Commission expanded competitive access to Santa Catalina Island boat service operators. We took notice in that decision of the potentially expanding market for boat operators between coastside points and Santa Catalina Island to serve markets extending from San Diego County to the Los Angeles area. Currently those markets are served by only a limited number of operators, and on a limited number of routes.

Granting Explorer's present application would expand the availability of scheduled service on the Long Beach run, which now is served on a scheduled basis only by Express. This would be consistent with the policy of competition we have adopted with respect to cross-channel vessel operations, provided that an aspiring carrier qualifies for the proposed service.

¹ Under Rule 44, parties may file a "protest" or a "response" to an application. A protest is a document objecting to the grant of an application in whole or in part. A response is a document that does not object to the authority sought in the application but presents information that the respondent believes would be useful to the Commission in acting on the application.

Explorer is now an experienced vessel operator. It owns a fast 149-passenger monohull vessel with appropriate amenities, which is adequate for operation of the proposed services. Explorer's most recent financial statements demonstrate that it is a going concern with total assets of about \$640,000 (including its vessel), liabilities of about \$536,000 (including the boat loan), and stockholders' equity of \$104,000. Its revenue base includes whale-watching trips and sales from the galley, and its pro forma revenue statement indicates that its revenues would exceed its expenses, even with low off-season ridership. We find that Explorer is operationally and financial fit to operate the proposed services.

4. Conditions of Service

The administrative law judge in this proceeding on May 28, 2002, conducted a telephonic status conference with representatives of Explorer, Express, and the Commission's Rail Safety and Carriers Division. As a result of that conference, Explorer agreed on the following conditions regarding its scheduled Long Beach-Catalina service.

4.1 Notice of Service Limitations

Explorer operates a single vessel, although it states that it has plans to seek a second vessel. Meanwhile, however, because Explorer will be offering scheduled service on both Dana Point-Avalon and Long Beach-Avalon, it will not provide same-day roundtrip service on weekdays between Long Beach and Avalon. Explorer states that it seeks to attract vacationers who plan a one- or two-night stay on the island. As Express notes, there is a significant market of those who plan only day trips to the island, departing Long Beach in the morning and returning in late afternoon or evening. Explorer agreed that, as a condition of its scheduled Long Beach-Avalon service, it will post notices at its

ticket counters and in its advertising stating those days of the week when same-day roundtrip service between Long Beach and Avalon is not available.

4.2 Parking Availability

Explorer represents that it is near agreement for acquisition of adequate parking to serve its passengers in Long Beach. The carrier agreed that, as a condition of its extended service, it will complete arrangements for parking and submit a letter confirming those arrangements to the Rail Safety and Carriers Division.

In addition to these conditions for operation of the extended service, Explorer agreed during the status conference to comply with all applicable environmental requirements for its new service, to meet all required Coast Guard and other safety requirements, and to comply with applicable general orders of this Commission regarding vessel operation.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is waived.

This application was filed on November 8, 2001. In Resolution ALJ 176-3076 issued on November 29, 2001, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were not necessary. No protests have been received. It follows that a public hearing is not required, nor is it necessary to alter the preliminary determinations made in Resolution ALJ 176-3076.

Findings of Fact

1. The applicant is financially and operationally fit to operate the services proposed in this application.
2. There is a public need for the proposed services.

Conclusion of Law

The application should be granted, subject to conditions set forth in the Ordering Paragraphs and in the Certificate of Public Convenience and Necessity.

O R D E R**IT IS ORDERED** that:

1. The Certificate of Public Convenience and Necessity of Catalina Explorer Co., Inc. (applicant) that authorizes it to operate as a vessel common carrier, as defined in Pub. Util. Code §§ 211 and 238, to transport persons, their baggage and similar items, is amended to include scheduled service between Long Beach and Avalon, Santa Catalina Island, and unscheduled service between Long Beach and all points on Santa Catalina Island. Decision 97-11-027, as amended, is further amended by replacing Original Pages 1 and 3 and First Revised Page 2 with First Revised Pages 1 and 3 and Second Revised Page 2.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetable within 120 days after this order is effective.
- c. State in the tariffs and timetables when service will start; allow at least 10 days' notice to the Commission; and make timetables and tariffs effective 10 or more days after this order is effective.
- d. Comply with General Orders Series 87, 111, and 117.
- e. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 403 when notified by mail to do so.

3. The applicant may not operate any service approved in this order until arrangements have been made for any parking or docking facilities or

procedures required to operate the service, and until any required approvals have been obtained from local authorities with jurisdiction to regulate such arrangements and facilities.

4. The applicant will post notices at its ticket counter and in its advertising explaining its schedule and noting those days of the week in which same-day roundtrip service between Long Beach and Avalon is not available.

5. Applicant is authorized to begin operations on the date that the Rail Safety and Carriers Division mails a notice to the applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission, and that the United States Coast Guard has approved the use of the applicant's vessel(s) for service.

6. Authority to amend the Certificate of Public Convenience and Necessity to operate as a vessel common carrier (VCC-74), which is granted herein, shall expire unless exercised within 180 days after the effective date of this order.

7. The application is granted as set forth above.

8. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

Catalina Explorer Co., Inc., a corporation, by the certificate of public convenience and necessity granted by the *revised decision noted in the foot of the margin, is authorized to conduct scheduled and nonscheduled common carrier services by vessels, for the transportation of passengers and their baggage, newspapers, periodicals, mail, bicycles, surfboards, and SCUBA gear, between the points described in Section II, subject to the following conditions:

- a. No vessel shall be operated unless it has met all applicable safety requirements, including those of the United States Coast Guard.
- b. The term "on-call," service shall be performed at hourly or per diem rates, which include the services of vessel and crew, regardless of the number of passengers transported. Transportation shall not be performed on an individual fare basis.
- c. The term "charter" service, as used herein refers to service in which the vessel is engaged, for a specified charge, by a person or group of persons for the exclusive use of said person or group of persons. The tariffs shall show the conditions under which each "charter" service will be rendered. Transportation shall not be performed on an individual fare basis.
- d. This certificate does not authorize the holder to conduct any operation on the property of or into any airport unless such operation is authorized.

Issued by California Public Utilities Commission.

*Revised by Decision_____, Application 01-11-007.

Appendix VCC-74

Catalina Explorer Co. Inc.
(a corporation)

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SECTION II. ROUTE DESCRIPTION.

A. Scheduled Service

1. Dana Point - Avalon, Santa Catalina Island

Between Dana Point and Avalon, Santa Catalina Island.

2. *Long Beach – Avalon, Santa Catalina Island

Between Long Beach and Avalon, Santa Catalina Island.

A minimum of one round-trip schedule per day for a minimum of five days per week will be operated throughout the year, except from February 11 through March 14 of each year for annual vessel maintenance.

B. Non-Scheduled Service

On-call and Charter Service

Between Dana Point, Newport Harbor, Long Beach, and Redondo Beach, on the one hand, and all points and places on Santa Catalina Island, on the other hand.

Appendix VCC-74

Catalina Explorer Co. Inc.
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